

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI,
WESTERN DIVISION**

TIFFANY WALKER, GUARDIAN OF TEYVAIN
COX, A MINOR, FEMEKA SINGLETON, AS
GUARDIAN OF ORALNISHA LA'SHAE HUFF
AND MARYONNA KEY'SHAWNTA HUFF, MINORS,
CHERYL WOODS, GUARDIAN OF ORIS LEE
HUFF, JR.

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 5:06cv30-DCB-JMR

SMITTY'S SUPPLY, INC., A FOREIGN
CORPORATION, and CLIFTON L. BONDS

DEFENDANTS

ORDER

This matter comes before the Court on the defendants' Motion to Exclude Testimony of G. Richard Thompson, Ph.D. Concerning Oris L. Huff's Damages [**docket entry no. 112**]. Having carefully considered said Motion in light of applicable statutory and case law, the Court finds and orders as follows:

In their February 13, 2008, Motion, the defendants ask the Court to exclude the testimony of the plaintiffs' economic expert G. Richard Thompson, Ph.D., inasmuch as Dr. Thompson relied upon an inaccurate figure in calculating the present value of Oris Huff's future earnings. More specifically, the defendants point out that the \$1000.00 per week actual earnings figure used by Dr. Thompson is wholly speculative, lacks factual support, and is contradicted by Mr. Huff's 2005 W-2 Wage and Tax Statement.

In their March 5, 2008, Response [**docket entry no. 120**] to the

defendants' Motion, the plaintiffs concede that Dr. Thompson's calculations were incorrect because they were based upon erroneous financial information which he had been provided. The plaintiffs attach an updated report from Dr. Thompson to their Response concerning the present value of the future earnings of Mr. Huff which uses the correct figure. The defendants agree that the revised report does correct the prior error, but argue instead that the new report is an untimely designation of an expert opinion under the Court's Scheduling Order and Agreed Order of February 4, 2008, and should be excluded.

The Court finds that the plaintiffs have shown good cause for the untimely filing of Dr. Thompson's revised report; accordingly, pursuant to Federal Rule of Civil Procedure 16(b), the Court will modify the Scheduling Order so as to receive the plaintiffs' March 5, 2008, revised report of Dr. Thompson. Therefore,

IT IS HEREBY ORDERED that the defendants' Motion to Exclude Testimony of G. Richard Thompson, Ph.D. Concerning Oris L. Huff's Damages [**docket entry no. 112**] is **DENIED**.

SO ORDERED, this the 30th day of April 2008.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE